



Georgia Department of Early Care and Learning

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Nathan Deal
Governor

Amy M. Jacobs
Commissioner

Notice of Public Hearing for Proposed Rulemaking
Bright from the Start: Georgia Department of Early Care and Learning

Rule Chapter 591-3-1, Rules and Regulations for Support Centers

Proposed Adoption of Rule 591-3-1-.01
Proposed Adoption of Rule 591-3-1-.02
Proposed Adoption of Rule 591-3-1-.03
Proposed Adoption of Rule 591-3-1-.04
Proposed Adoption of Rule 591-3-1-.05
Proposed Adoption of Rule 591-3-1-.06
Proposed Adoption of Rule 591-3-1-.07

Notice Date: October 9, 2015

Dear Sir or Madam:

Bright from the Start: Georgia Department of Early Care and Learning (Bright from the Start) proposes to adopt a new rule chapter for the regulation of Support Centers in Rule Chapter 591-3-1 as the *Rules and Regulations for Support Centers*.

Bright from the Start proposes the adoption of these rules and regulations as deemed necessary by the passage of 2015 Georgia House Bill 401 into law.

The proposed adoption of the *Rules and Regulations for Support Centers* as noted below have been posted to Bright from the Start's website at <http://dec.al.ga.gov/ChildCareServices/ProposedRevisions.aspx>.

The proposed changes are being considered for adoption on a permanent basis, and Bright from the Start invites interested parties to comment on them. All comments, written and verbal, will be given full consideration.

Interested parties may submit written comments by mail to 2 Martin Luther King, Jr. Drive SE, Suite 754, East Tower, Atlanta, GA 30334, by fax to (404) 656-0351 or by e-mail to CCSRuleRevisions@dec.al.ga.gov. To be considered, Bright from the Start must receive written comments on or before 5 p.m., November 10, 2015.

Interested parties who prefer to make verbal comments on the proposed rule changes may do so at a public hearing before the Board of Early Care and Learning. The public hearing will be held from 1 p.m. to 2 p.m. at 2 Martin Luther King Jr. Drive SE, East Tower 8th Floor, Oak Room, Atlanta, Georgia 30334 on Thursday, November 12, 2015. Speakers should sign in to speak before 1 p.m. If no guest speakers arrive by 1:30 p.m., the board will resume its regular meeting. Comments made in writing will be given the same consideration as those that are made verbally.

All interested parties are invited to attend the public hearing even if they choose not to make verbal comments regarding the rule amendment proposals.

I. Proposed Adoption of Chapter 591-3-1, *Rules and Regulations for Support Centers*

A. Bright from the Start: Georgia Department of Early Care and Learning proposes to Adopt Rule 591-3-1-.01 entitled “*Legal Authority*” of *Rules and Regulations for Support Centers*. This adoption shall include the following:

591-3-1-.01 Legal Authority

These rules are adopted and published pursuant to the Official Code of Georgia Annotated (O.C.G.A.) Sec. 20-1A-1 et seq.

Authority: O.C.G.A. § 20-1A-1 *et seq.*

B. Bright from the Start: Georgia Department of Early Care and Learning proposes to Adopt Rule 591-3-1-.02 entitled “*Title and Purpose*” of *Rules and Regulations for Support Centers*. This adoption shall include the following:

591-3-1-.02 Title and Purpose

These rules shall be known as the Rules and Regulations for Support Centers.

The purpose of these rules is to provide for the registration of Support Centers within Georgia to allow such entities to initiate the criminal records check process for those individuals eligible to provide services to applicable programs for the care of children.

Authority: O.C.G.A. § 20-1A-1 *et seq.*

C. Bright from the Start: Georgia Department of Early Care and Learning proposes to Adopt Rule 591-3-1-.03 entitled “*Definitions*” of *Rules and Regulations for Support Centers*. This adoption shall include the following:

I. 591-3-1-.03 Definitions

In these rules, unless the context otherwise requires, the words and phrases set forth herein shall mean the following:

(a) "Adult" means any competent individual eighteen (18) years of age or older.

(b) "Child" or "Children" means any person(s) under 18 years of age for whom child care service(s) is (are) provided in an Early Care and Learning Program.

(c) "Child Care Learning Center" or "Center" means any place operated by an individual or business entity authorized under Georgia law wherein are received for pay for group care for less than 24 hours per day, without transfer of legal custody, seven or more children under 18 years of age and which is required to be licensed.

(d) "Crime" means

1. Any felony;
2. A violation of O.C.G.A. Sec. 16-5-23, relating to simple battery, where the victim is a minor;
3. A violation of O.C.G.A. Sec. 16-5-23.1, relating to battery, where the victim is a minor;
4. A violation of O.C.G.A. Sec. 16-21-1, relating to contributing to the delinquency of a minor;
5. A violation of O.C.G.A. Sec. 16-6-1 et seq., relating to sexual offenses;
6. A violation of O.C.G.A. Sec. 16-4-1, relating to criminal attempt when the crime attempted is any of the crimes specified by this paragraph; or
7. Any other offenses committed in another jurisdiction which, if committed in this state, would be one of the enumerated crimes listed in this paragraph.

(e) "Criminal Record" means:

1. Conviction of a crime; or
2. Arrest, charge, and sentencing for a crime where:
 - (i) A plea of nolo contendere was entered to the charge; or
 - (ii) First offender treatment without adjudication of guilt pursuant to the charge was granted; provided, however, that this division shall not apply to a violation of O.C.G.A. 16-13-1 et seq., relating to controlled substances, or any other offense committed in another jurisdiction which, if it were committed in this state, would be a violation of O.C.G.A. Sec. 16-13-1 et seq. if such violation or offense constituted only simple possession; or
 - (iii) Adjudication or sentence was otherwise withheld or not entered on the charge; provided, however, that this division shall not apply to a violation of O.C.G.A. Sec. 16-13-1 et seq. relating to controlled substances, or any other offense committed in another jurisdiction which, if it were committed in this state, would be a violation of Chapter 13 of Title 16 if such violation or offense constituted only simple possession; or
3. Arrest and being charged for a crime if the charge is pending, unless the time for prosecuting such crime has expired pursuant to O.C.G.A. Sec. 17-3-1 et seq.

(f) "Department" means the Bright from the Start: Georgia Department of Early Care and Learning.

(g) "Early Care and Education Program" or "Program" means any Family Child Care Learning Home, Child Care Learning Center or Support Center.

(h) "Eligible Employee" means any person who is 17 years of age or older and is a potential director, employee, volunteer, independent contractor or Student-in-Training of an Early Care and Education Program seeking a Fingerprint Records Check Determination through a Support Center.

(i) "Family Child Care Learning Home" or "Home" means a private residence operated by any person who receives therein for pay for supervision and care fewer than 24 hours per day, without transfer of legal custody, at least three but not more than six children under 13 years of age who are not Related to such persons and whose Parent(s) or guardians are not residents in the same private residence as the Provider; provided, however, that the total number of unrelated Children cared for in such Home, for pay and not for pay, may not exceed six Children under 13 years of age at one time, except that a Provider may care for two additional children three years of age or older for two designated one hour periods daily upon approval by the Department.

(j) "Fingerprint" means any inked fingerprint card or an electronic image of a person's fingerprint.

(k) "Fingerprint Records Check Application" means a document created by the Department to be completed and submitted to the Department by every actual and potential Provider and Employee (including independent contractors, volunteers, Students-in-Training) of a Program that cares for children and that indicates the individual's name, facility type, and such other information as the Department deems appropriate and which authorizes the Department to receive and render a Fingerprint Records Check Determination pursuant to any criminal history record information received pertaining to the individual from any local, state, or national criminal justice or law enforcement agency.

(l) "Fingerprint Records Check Determination" means a satisfactory or unsatisfactory determination made by the Department that is based on national criminal history record information obtained by the use of Fingerprints.

(m) "Registration" means a certificate issued by the Department to a Support Center applicant granting the applicant permission to operate a Support Center in accordance with these rules.

(n) "Satisfactory Records Check Determination" means a written determination that a person for whom either a preliminary or a fingerprint records check was performed was found to have no Criminal Record as defined in these rules.

(o) "Student-in-Training" means a student currently enrolled in either a high school recognized by the Department of Education or an early education curriculum through an accredited school of higher education which requires or permits the student to observe and participate in the care of Children at a Program during a limited period of time, i.e., one quarter, one trimester or one semester, provided that they are under the direct supervision of Program personnel at all times when caring for Children. Sixteen-year-old or younger Students-in-Training are exempt from criminal record check requirements.

(p) "Support Center" means any business entity, including but not limited to temporary staffing agencies, universities, and independent contractors, that receives no children for care and that is granted a Registration by the Department for the purpose of initiating the criminal records check process for an Eligible Employee of any licensed, commissioned or permitted Early Care and Education Program.

(q) "Unsatisfactory Records Check Determination" means a written determination that a person for whom either a preliminary or a fingerprint records check was performed has a Criminal Record as defined in these rules.

Authority: O.C.G.A. § 20-1A-1 *et seq.*

D. Bright from the Start: Georgia Department of Early Care and Learning proposes to Adopt Rule 591-3-1-.04 entitled "*Support Center Requirements and Registration Applications*" of Rules and Regulations for Support Centers. This adoption shall include the following:

591-3-1-.04 Support Center Requirements and Registration Applications

(1) Support Center Requirements

(a) No person or business entity authorized under Georgia law shall operate a Support Center unless a Registration has been obtained from the Department.

(b) A Registration to operate a Support Center is not transferable in any way. A change of business ownership or address requires a new Registration to be issued by the Department. Each Registration shall become invalid immediately upon the final sale or closure of the Support Center, or upon the suspension, revocation, or restriction of the Registration.

(c) The Registration shall be automatically renewed each year unless the Registration is voluntarily surrendered by the holder or suspended or revoked by the Department.

(d) A Support Center shall not knowingly make any false statement in connection with a Fingerprint Records Check Application or change of ownership.

(e) A Support Center shall report to the Department any known arrest for a Crime or change in the Satisfactory Records Check Determination or Criminal Record of any Eligible Employee within twenty-four (24) hours or the next work day.

(f) A Support Center may submit Fingerprint Records Check Applications for Eligible Employees to the Department in accordance with guidelines set forth by the Department.

(g) A Support Center applicant shall comply with these rules and regulations and Georgia law.

(2) Registration Applications

(a) An application for a Registration to operate a Support Center shall be submitted to the Department on forms provided by the Department.

(b) A Registration may be issued upon presentation of evidence satisfactory to the Department that the Support Center applicant is in compliance with applicable statutes and these rules.

(c) A Registration applicant shall not knowingly make any false statement in connection with the application for a Registration or change of ownership.

(d) A Registration applicant shall comply with these rules and regulations and Georgia law.

(e) A Registration applicant shall provide the Department access to the Support Center and to information pertinent to the initial Registration of the Support Center.

(f) A person or business entity authorized under Georgia law may not register with the Department as a Support Center within one (1) year of a prior license, permit or Registration denial, revocation or suspension.

Authority: O.C.G.A. § 20-1A-1 *et seq.*

E. Bright from the Start: Georgia Department of Early Care and Learning proposes to Adopt Rule 591-3-1-.05 entitled “Enforcement and Penalties” of Rules and Regulations for Support Centers. This adoption shall include the following:

591-3-1-.05 Enforcement and Penalties

No Support Center shall operate in the State without a Registration that has been issued by the Department. A Registration for a Support Center may be denied, revoked, restricted or suspended, if applicable, in accordance with the following:

(a) Refusal of a Registration. The Department shall refuse to issue a Registration in the following instances:

1. Where a Registration applicant submits a Registration application within one (1) year of a prior license, permit or Registration denial, revocation or suspension; or

2. Where a Registration applicant who has transferred ownership or governing authority of a program subject to regulation by the Department within one (1) year of the date of a new application when such transfer was made in order to avert denial, revocation or suspension of such license or Registration; or

3. Where a Registration applicant knowingly makes any false statement of material information in connection with an application or on any documents submitted to the Department or in the alteration or falsification of records maintained by the Support Center; or

4. Where a Registration applicant fails to meet the Registration requirements prescribed under these rules or Georgia law within a reasonable amount of time.

(b) Revocation of a Registration. The Department may revoke a Registration in the following instances:

1. Where a Support Center fails to report a known arrest or change in the Satisfactory Records Check Determination of any Eligible Employee; or

2. Where the Department determines that a non-correctable deficiency, abuse or dereliction exists in the operation or management of the Support Center; or

3. Where the Department determines that a correctable abuse, dereliction or deficiency in the operation or management of the Support Center has not been corrected within a reasonable time.

(c) Suspension of a Registration. The Department may suspend the Registration to operate a Support Center for a definite period or for an indefinite period in connection with any condition which may be attached to the restoration of the Registration.

Authority O.C.G.A. § 20-1A-1 *et seq.*

F. Bright from the Start: Georgia Department of Early Care and Learning proposes to Adopt Rule 591-3-1-.06 entitled “Severability” of Rules and Regulations for Support Centers. This adoption shall include the following:

591-3-1-.06 Severability

In the event that any rule, sentence, clause or phrase of any of these rules and regulations may be construed by any court of competent jurisdiction to be invalid, illegal, unconstitutional, or otherwise unenforceable, such determination or adjudication shall in no manner affect the remaining rules or portions thereof. The remaining rules or portions thereof shall remain in full force and effect, as if such rule or portions thereof so determined, declared or adjudged invalid or unconstitutional were not originally a part of these rules.

Authority: O.C.G.A. § 20-1A-1 *et seq.*

G. Bright from the Start: Georgia Department of Early Care and Learning proposes to Adopt Rule 591-3-1-.07 entitled “E-Mail Contact Information. This adoption shall include the following:

591-3-1-.07 E-Mail Contact Information

Each Support Center registered in the state of Georgia shall provide the Department with e-mail contact information so that this agency may contact the Support Center and send information to the Support Center via email. It shall be the responsibility of the Support Center to maintain correct contact information, to update the Department if contact information changes, and to respond timely to information requests from the Department transmitted to the provided e-mail address. Delivery of any such information, including but not limited to directives, bulletins, data requests, notices of proposed amendments to rules and regulations, and any other matters affecting Support Centers, to said e-mail address shall be considered valid so long as the Department does not receive a failure to deliver message.

(a) All applicants for Registration shall submit a valid e-mail address to the Department at the time of application on forms provided by the Department.

Authority: O.C.G.A. § 20-1A-1 *et seq.*

II. Public Comment on Proposed Adoption of the Rules and Regulations for Support Centers:

The proposed adoption of the *Rules and Regulations for Support Centers* as noted above have been posted to Bright from the Start’s website at <http://dec.al.ga.gov/ChildCareServices/ProposedRevisions.aspx>.

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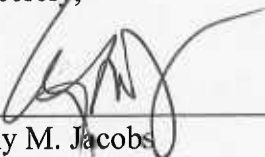
All written comments received by 5 p.m. November 10, 2015 will be shared with the Board members of Bright from the Start in reference to Bright from the Start's proposal to adopt Support Center rules in Rule Chapter 591-3-1 in the *Rules and Regulations Support Centers*. After the Board decides to adopt or reject the proposed rule changes, an order adopting or rejecting the proposal will be posted on the department's website at www.dec.al.ga.gov.

This notice of proposed rulemaking is being issued pursuant to O.C.G.A §§ 20-1A-1 *et seq.* and 50-13-4. If you have any questions about the notice, contact Kristie Lewis, Assistant Commissioner for Child Care Services, at (404) 657-5562.

If, due to a disability, you need this notice in an alternate format or if you plan to make verbal comments and will require special accommodations, call Kristie Lewis at the number referenced above. Please do this as soon as possible but no later than ten (10) days before the above referenced public hearing.

We appreciate our partnership with you in meeting the early care and education needs of Georgia's children and families, and we value your expertise and experience as we refine the rules and regulations that ensure our children remain healthy and safe.

Sincerely,



Amy M. Jacobs
Commissioner